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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Written statement submitted by Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[9 March 1998]

GE.98-11058 (E)

1. Human Rights Watch wishes to highlight for the Commission problems of torture and grave abuse in custody that we investigated in the course of the past year.

2. In **Peru**, while the incidence of extrajudicial executions and forced disappearances has declined dramatically in recent years, the torture of detainees suspected of common or politically motivated crimes has continued. Methods of torture include beatings, near-drownings, electric shock, and rape. Most cases of torture have been attributed to Peru's anti-terrorism police and the military. Although President Alberto Fujimori has stated that he does not condone torture, his administration has made no effort to curtail it. To the contrary, his Government has weakened constitutional guarantees and acted to undermine the autonomy and effectiveness of government bodies established to protect constitutional rights. It has also attacked and intimidated the press for carrying stories critical of its human rights record. The Congress, controlled by President Fujimori's Change 90 party, has failed to enact legislation that would designate torture as a distinct offence within the Penal Code, carrying a commensurate level of punishment.

3. Most torture cases go unpunished. Those responsible have only been held accountable when a case invokes a widespread domestic and/or international outcry, as in the case of Leonor La Rosa, an army intelligence agent whose superiors twice tortured her in 1997 when they suspected she had leaked information to the press. In May 1977, La Rosa's torturers were sentenced by a military court to eight years imprisonment.

4. In **Turkey**, the practice of torture is particularly prevalent among the anti-terror police, whose methods include hanging by the arms in a variety of positions; electric shock; the squeezing of testicles or breasts; isolation; and stripping the suspect naked. Such practices are facilitated by the general climate of impunity in which the anti-terror police operate as well as by laws that permit the anti-terror police to hold detainees without access to a lawyer for up to 4 days and hold security detainees without arraignment for up to 7 days, which can be extended to 10 days in the state of emergency zone in the south-east. In December, Prime Minister Yilmaz issued a circular to security forces forbidding torture and abuse, but similar circulars by former Governments have had little result. Human Rights Watch welcomes Turkey's invitation to the Special Rapporteur on torture to visit Turkey in 1998.

5. We want to call the attention of Commission members to the serious problems of torture and physical abuse in pre-trial detention in **Armenia, Azerbaijan and Georgia**. In **Armenia**, physical abuse and beating are routine during criminal investigations, and caused the deaths of at least two police detainees in 1997. Physical abuse in pre-trial detention facilities to compel confessions or extract false testimony is a widespread and routine practice throughout **Azerbaijan**, while torture of security detainees has become systematized in some facilities such as the Baku City police station. And despite recent welcome actions by **Georgia's** parliament to strengthen the judiciary and enact a revised code of criminal procedure, in practice detainees continue to suffer physical abuse.

6. Torture claims untold victims throughout the **Russian Federation**, usually during the first few hours of police detention. Police officers beat detainees almost as a standard procedure, force plastic bags and gas masks on

their heads, and sometimes apply electric shocks. The prosecutor's offices and courts generally ignore victims' complaints, adding to the atmosphere of virtually complete impunity. Confessions obtained through torture often serve as bases for convictions. The Government has so far not taken steps to establish an effective mechanism for review of torture complaints, nor has it made an effort to prosecute perpetrators, as was recommended by the Committee against Torture in 1997.

7. Human Rights Watch urges the Commission to call on the Russian Federation to implement the recommendations of the Committee against Torture and halt police abuse and torture.

8. In **Uzbekistan**, Human Rights Watch has documented a pattern of physical abuse and torture of detainees by police of the Ministry of Internal Affairs and Officers serving under the National Security Service (the successor to the KGB). Despite explicit legal prohibitions under Uzbekistan law, beatings ar a standard law-enforcement technique used to extract confessions, extort money, or intimidate dissidents. Brutality is so unchecked that victims almost never bring charges for fear of retribution in custody or of being denied access to a lawyer, who might witness evidence of abuse. Physical abuse can also be extreme, leading to deaths in police custody. Human Rights Watch recommends an investigation by the Special Rapporteur on torture in Uzbekistan as soon as possible.

9. Human Rights Watch is deeply concerned about the chronic physical abuse of prisoners in **Brazil's** prisons, jails and police lock-ups, as well as the severe overcrowding of such facilities. Violations of prisoners' rights to life and physical integrity are particularly frequent after prison rebellions or escape attempts, as prisoners are beaten or even killed in a violent and unjustifiable form of summary "punishment".

10. In July, in the State of Paraíba, military police invaded a prison after inmates took the prison director hostage. Eight prisoners were killed, with coroners' reports and eyewitness testimony establishing that at least seven were summarily executed after the hostages had been freed and the police had the situation under control. In December, in the State of Ceará, a group of inmates in the State's largest prison took four hostages, including a military police lieutenant. In capturing prisoners who escaped during the incident, the police killed seven of them, several of whom had already surrendered.

11. There have been innumerable other recent incidents in which military and civil police have physically abused inmates held in the country's penal institutions. Typically, when called into a prison or police lock-up after a disturbance, special police squads require detainees to strip naked; they then proceed to beat them with police batons, wood sticks and/or iron bars, often making the prisoners run through a gauntlet. The most recent prisoner riots in Brazil have been intimately related to poor detention conditions and abusive treatment. Detainees held in overcrowded police lock-ups, where riots are particularly frequent, very often demand only transfer to prison, which is where the vast majority of them should be held according to Brazilian law. Human Rights Watch urges the Commission to call on Brazil to improve conditions in its penal facilities and, in particular, to reduce overcrowding, as well as to ensure that incidents of physical abuse of prisoners are investigated and, where appropriate, prosecuted.

12. In the **United States**, Human Rights Watch is concerned about the conditions of confinement and treatment of the more than 13,000 individuals held daily by the United States Immigration and Naturalization Service (INS) in detention centres and jails around the country. They are asylum seekers, undocumented immigrants and individuals detained after serving criminal sentences, many of whom face indefinite detention. In particular, we are concerned by the INS's use of local jails, where nearly half of all administrative INS detainees are held in inappropriate criminal and punitive environments. Conditions there fall short of international standards for pre-trial detainees and lack INS oversight. In visits to local jails in seven States during 1997, we found that INS detainees often shared living and recreation space with convicted criminals. Medical and dental attention were extremely limited. Detainees were frequently transferred from facility to facility with no apparent consideration by the INS for location of family or legal counsel, who were often given no notice of the transfer. Staff at local jails were ill-equipped to deal with a multilingual population and most jail rules and regulations were written only in English and almost no immigration legal materials were available. Disciplinary sanctions were liberally applied to INS detainees, sometimes as a result of linguistic or cultural miscommunications. Detainees also reported instances of serious physical abuse by jail staff.

13. We recommend that the Working Group on Arbitrary Detention conduct an investigation of the situation of immigrants and asylum seekers detained in the United States.

14. Human Rights Watch continues to view with consternation the intransigence of the United States Government in addressing pervasive sexual abuse and degrading and inhumane treatment by prison guards and staff of women incarcerated in State prisons. Despite indisputable evidence of continued sexual abuse and retaliatory acts by prison officials against women who report the abuse, State governments have refused to acknowledge the problem. In virtually all States, male guards are routinely assigned to work in units housing female inmates, yet many States fail to train guards to refrain from engaging in degrading and demeaning behaviour; to respect the most basic level of privacy of the women; and to avoid sexual contact with the women. Some States have still failed to criminalize sexual contact between prison staff and prisoners. Although the United States Federal Government is charged with protecting prisoners from violations of their civil rights, no effective system exists to receive complaints and monitor State prison systems for violations. Human Rights Watch urges the Commission to call on the United States to ensure that (a) sexual contact between prison staff and prisoners is expressly criminalized; (b) all officers responsible for sexual misconduct are disciplined; (c) prison staff are trained to refrain from sexual contact with prisoners; (d) prisoners are guaranteed access to effective means for reporting sexual misconduct; (e) independent monitors, including non-governmental organizations, have access to prisons; and (f) allegations of sexual misconduct by prison staff are investigated and, where appropriate, prosecuted.